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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/088,163    06/01/98    MOSER, JR    J    960514.ORI

PM82/0801  
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900 SECOND AVENUE SOUTH  
MINNEAPOLIS MN 55402-3325

EXAMINER

MILLER, E

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 08/01/00

13

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Applicati n No.

09/088,163

Applicant(s)

MOSER, JR, JOHN R.

Examin r

Edward A. Miller

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 38-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

Art Unit: 3641

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 38-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradford et al. in view of Chi et al., Willer and Fleming, for reasons et forth in paragraph 2 of Paper No. 6, incorporated herein by reference.
3. Claims 38-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite. The recited molecular weight is incorrect when considered in light of the fact that the polymer in the claims is recited to be cured. As such, the 6000 MW, e.g., is for the uncured prepolymer, and the claims do not correctly reflect this fact. Further, the terminology now used is indefinite and not properly supported as the specification is to a hydroxy terminated adipate polymer, but the broad recitations of the claims no longer recite this. Specifically, the language is neutral as to termination, which is incorrect, especially in claims that recite isocyanate curing agents. These are exemplary.

4. Claims 43-44 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voigt in view of Warringer et al.

Voigt teaches a composition of Estane binder dissolving TNT, e.g. Note col. 3, lines 1-5, e.g. for this polymer of isocyanate cured polytetramethyleneadipate. Some of the composition is a small amount of DNT impurity, which acts as a plasticizer. This renders the claims obvious. Warringer et al. further teach a composition with Estane binder, which is obvious, and obvious with a minor amount of plasticizer, e.g.

Art Unit: 3641

5. Claims 38-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sutton et al. in view of Hauser et al., Godfrey, Genetti et al., and Kangas.

Sutton et al. teach the basics of polyester polymer binders, e.g., at col. 4, lines 52-75. It would have been obvious to use a similar polyol, as well known in this art, as in the polyester art, col. 4, line 63. Hauser et al. clearly suggests the use of tetramethylene glycol, at col. 2, line 16, and substitution of such would have been obvious to one of ordinary skill in the art. Godfrey is primarily cumulative, but with a specific teaching of curing catalysts when carboxy terminated polyesters are used. Genetti et al., col. 5, line 67 through col. 6, line 15, e.g., and Kangas, at col. 4, lines 56-60 and col. 5, lines 1-2, 6, and 13, further show that the polyester itself is well known in the polymer art, e.g. Variation of specific, notoriously well known parameters would have been obvious to one of ordinary skill in the art. It is well settled that optimizing a result effective variable is well within the expected ability of a person or ordinary skill in the subject art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980), *In re Aller*, 220 F.2d 454, 105 USPQ 233 (CCPA 1955).

6. Any inquiry concerning either this or an earlier communication from the Examiner should be directed to Examiner Edward A. Miller at (703) 306-4163. Examiner Miller may normally be reached daily, except alternate Fridays, from about 9 AM to 7 PM.

If attempts to reach Examiner Miller by telephone are unsuccessful, his supervisor Mr. Jordan can be reached at (703) 306-4159. The Group fax number is (703) 305-7687.

If there is no answer, or for any inquiry of a general nature or relating to the application status, please call the Group receptionist at (703) 308-1113.

Miller/em

July 31, 2000

  
for EDWARD A. MILLER  
PRIMARY EXAMINER